

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST ADMINISTRATORS, INC.,

Plaintiff,

v.

DPI SPECIALTY FOODS, INC., a  
Delaware corporation,

Defendant.

NO.

COMPLAINT TO COMPEL AUDIT

I.

Plaintiff, Northwest Administrators, Inc., is an organization incorporated under the laws of the State of Washington, with its principal place of business in King County, and is the authorized administrative agency for and the assignee of the Western Conference of Teamsters Pension Trust Fund (hereinafter "Trust").

II.

The Western Conference of Teamsters Pension Trust Fund is an unincorporated association operating as a Trust Fund pursuant to Section 302 of

COMPLAINT TO COMPEL AUDIT - 1

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1 the Labor Management Relations Act of 1947, as amended, to provide retirement  
2 benefits to eligible participants.

3 III.

4 This Court has jurisdiction over the subject matter of this action under  
5 Section 502(e)(1) and (f) of the Employee Retirement Income Security Act of 1974  
6 ("ERISA"), 29 U.S.C. §1132(e)(1) and (f) and under §301(a) of the Taft-Hartley Act,  
7 29 U.S.C. §185(a).  
8

9 IV.

10 Venue is proper in this District under Section 502(e)(2) of ERISA, 29 U.S.C.  
11 §1132(e)(2), because the Plaintiff Trust Fund is administered in this District.  
12

13 V.

14 Defendant is a Delaware corporation.

15 VI.

16 Defendant is bound to a collective bargaining agreement with Locals 683 and  
17 848 of the International Brotherhood of Teamsters (hereinafter "Locals"), under  
18 which the Defendant was required to promptly and fully report for and pay monthly  
19 contributions to the Trust at specific rates for each hour of compensation (including  
20 vacations, holidays, overtime and sick leave) said Defendant paid to its employees  
21 who were members of the bargaining unit represented by the Locals (such  
22 bargaining unit members were any of the Defendant's part time or full time  
23  
24

1 employees who performed any work task covered by the Defendant's labor contract  
2 with the Locals, whether or not those employees ever actually joined the Locals).

3 VII.

4 Defendant accepted the Trust's Agreement & Declaration Agreement ("Trust  
5 Agreement") which provides in part:

6  
7 Each Employer shall promptly furnish to the Trustees or  
8 their authorized representatives on demand any and all  
9 records of his past or present Employees concerning the  
10 classification of such Employees, their names, Social  
11 Security numbers, amount of wages paid and hours  
12 worked or paid for, and any other payroll records and  
13 information the Trustees may require in connection with  
14 the administration of the Trust Fund, and for no other  
15 purpose. The Trustees or their authorized  
16 representatives may examine any books and records of  
17 each employer, which the Employer is required to furnish  
18 to the Trustees on demand whenever such examination  
19 is deemed necessary or desirable by the Trustees in the  
20 proper administration of the Trust. If it becomes  
21 necessary for the trustees to retain legal counsel to  
22 compel an Employer to furnish to, or permit the  
23 examination of books, or records or information by, the  
24 Trustees or their representatives, the Employer shall  
25 reimburse the Trust fund for all reasonable attorney's  
26 fees and court costs incurred by the Trust Fund in  
connection therewith, whether or not legal proceedings  
were instituted and whether or not such examination  
disclosed that the Employer has failed to make  
appropriate or timely Employer Contributions to the Trust  
Fund.

21 VIII.

22 The Trustees of the Western Conference of Teamsters Pension Trust deem  
23 it both necessary and advisable to the proper administration of the Trust that their  
24

1 authorized representatives examine the Defendant's books and records for the  
 2 inclusive period March 1, 2013 to the Present Date to determine if the Defendant  
 3 previously reported for and paid to the Trust all of the amounts due for the  
 4 Defendant's employment of members of the bargaining unit represented by the  
 5 Trust for said period.

# IX.

8 Despite notification to the Defendant of the Trustees' desire to conduct an  
 9 audit for the period March 1, 2013 to the Present Date, and demands made upon  
 10 the Defendant on the Trust's behalf for access to Defendant's records for an  
 11 examination of them for that period, to date the Defendant has failed and refused to  
 12 make its records available for the thorough examination the Trustees deem  
 13 necessary and advisable to the proper administration of the Trust.

15 WHEREFORE, plaintiff, on the Trust's behalf, prays the court as follows:

16 1. That the Court enter an Order Compelling Audit under which  
 17 Defendant shall be directed by the Court, within a specified time, to make available  
 18 to the authorized representatives of the Trustees of the Trust for the period March 1,  
 19 2013 to the Present Date:

21 All invoices from all temporary agencies that were utilized,  
 22 containing employee information for all hours  
 23 worked/compensated within the audit period of **3/01/2013 –**  
 24 **4/30/2017**. It is preferred that invoices contain the following  
 information: employee name, employee SSN, hours (weekly or  
 bi-weekly breakdown), earnings, and titles/job duties. The

Auditor is also requesting an updated roster with clarification of job codes: 9999, 07RSU, SSM55102, and SM55101.

The auditor also requires additional information for the following people:

**Account #216086 (Janitors, Maintenance, and Mechanics)**

Garcia Velasco, Esteban – had *Freezer* hours compensated for the employee at a straight time rate in pay period end date: 12/27/14. Describe what type of work was being performed to be compensated *Freezer* hours.

Morales, J.L. – for the pay period end date: 10/19/13, Employee had 8 floating holiday hours compensated. Also, the employee had 8 Floating Doc hours removed taken away. Clarify the compensation code: 9x-Floating Doc.

Martinez, Erik – the employee is classified as Selector; however, account #216086 is for employees performing Janitors, Maintenance, and Mechanics. Clarify if the employee misclassified? If not, clarify if the employee ever performed the duties that employees classified as Janitors, Maintenance or Mechanics perform.

Zamora, Jose M. – employee was reported in account #23128 (Warehousemen) from 01/01/16-05/31/16. Clarify if the employee ever switch positions. Documentation is needed that shows the employee was classified as a Warehouseman or performing the same duties, and when the employee switched to and from positions.

**Account #203427 (Truck Drivers Local 683)**

Gonzalez-yanez, Jorge – Employee was reported in account #203426 (Truck Drivers Local 848) from 11/01/2012 – 01/01/2016. From 02/01/2016-04/01/17 the employee was reported in account #203427. Provide proof that the employee switched from Local Union 683 to Local Union 848 and the dates when the switch occurred.

1           2.     Afford to the authorized representatives of the Trustees of the Trust  
2 both ample time and opportunity to examine all such materials of Defendant at such  
3 time and at such place as shall be convenient to the Trustees' authorized  
4 representatives.

5           3.     For judgment against the Defendant for:

- 6           A.     All of the Plaintiff's attorney's fees incurred in gaining auditor  
7 access to Defendant's records;  
8  
9           B.     All of the Plaintiff's costs incurred in gaining auditor access to  
10 defendant's records, and  
11  
12           C.     For such other and further relief as the Court may deem just  
13 and equitable.

14           DATED this 31<sup>st</sup> day of January, 2018.

15           REID, McCARTHY, BALLEW & LEAHY,  
16 L.L.P.

17             
18           \_\_\_\_\_  
19           Russell J. Reid, WSBA #2560  
20           Attorney for Plaintiff